

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

JOE DEE STANG,

Case No. 3:15-cv-01667-JE

Petitioner,

FINDINGS AND RECOMMENDATION

v.

MARION FEATHER,

Respondent.

JELDERKS, Magistrate Judge.

Petitioner filed this 28 U.S.C. § 2241 habeas corpus case on September 3, 2015 challenging his custody classification. He claims that the Bureau of Prisons ("BOP") erroneously determined his custody classification by taking into account an enhancement related to a prior attempted escape for which he had not been convicted.

On October 9, 2015, the BOP removed the enhancement and therefore asks the court to dismiss this case because it is

moot. Declaration of Paul Thompson, Exhibits 1 & 2. Although petitioner's supporting memorandum was due on December 17, 2015, he has not filed such a document or otherwise communicated with the court since his Petition for Writ of Habeas Corpus. Presumably, this is because the BOP granted the relief he requested in October 2015.

In order for a court to have jurisdiction over a matter, "an actual controversy must exist at all stages of the litigation." *Biodiversity Legal Foundation v. Badgley*, 309 F.3d 1166, 1173 (9<sup>th</sup> Cir. 2002). "When a controversy no longer exists, the case is moot." *Id.* Because the BOP has already provided petitioner with the relief he sought when filing this case, the court should dismiss the Petition for Writ of Habeas Corpus because it is moot.

#### **RECOMMENDATION**

The court should dismiss the Petition for Writ of Habeas Corpus (#1) because it is moot, enter a judgment dismissing this action without prejudice, and decline to issue a certificate of Appealability.

#### **SCHEDULING ORDER**

This Findings and Recommendation will be referred to a district judge. Objections, if any, are due within 17 days. If

no objections are filed, then the Findings and Recommendation will go under advisement on that date.

If objections are filed, then a response is due within 14 days after being served with a copy of the objections. When the response is due or filed, whichever date is earlier, the Findings and Recommendation will go under advisement.

DATED this 18th day of February, 2016.

/s/John Jelderks

John Jelderks

United States Magistrate Judge